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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,772	11/08/2000	Stephen Christopher Gladwin	11748/9	3933
7590	08/23/2004			
John S Paniaguas 525 West Monroe Street Suite 1600 Chicago, IL 60661-3693			EXAMINER WOO, STELLA L	
			ART UNIT 2643	PAPER NUMBER 9

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,772

Applicant(s)

GLADWIN ET AL.

Examiner

Stella L. Woo

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/59120 in view of Qureshey et al. (US 2002/0072326 A1, hereinafter "Qureshey").

Regarding claim 1, WO 00/59120 discloses a system (Fig. 2) for enabling digital audio data files (audio signals broadcast by the Internet; Abstract) to be played on a remote conventional audio device (tuner 24 is a conventional radio reception and sound reproduction device 24; Abstract, last sentence), the system comprising:

a host PC (computer terminal 21 connected to the Internet 4);
one or more electronic device (device 1 is connected to host PC 21 via connector 3 and coupled to tuner 24 via radio link).

WO 00/59120 differs from claim 1 in that it does not teach a remote device for controlling the transmission of digital audio data files to the electronic device 1. However, Qureshey teaches the desirability of using a wireless remote 135 for selecting a Web radio broadcast (Fig. 1; page 3, paragraph 37) such that it would have been obvious to an artisan of ordinary skill to incorporate a wireless remote control device, as taught by Qureshey, for enabling selection of an audio source transmission received by device 1 of WO 00/59120 as an alternative to using selection buttons 9 on device 1, thus, allowing user control from a distance.

Regarding claim 2, tuner 24 is a conventional radio device (Abstract, last sentence).

Regarding claim 3, tuner 24 receives FM radio broadcasts (page 5, line 34).

Regarding claim 4, device 1 is connected to host computer 21 via connector 3 (see Figure 2).

Regarding claims 5 and 6, device 1 includes a transmitter 5 for transmitting broadcast signals to convention radio 24, which receives FM signals (Abstract; page 5, lines 15-34).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Swanson (US 2002/0013784 A1).

Regarding claims 1, 4, Swanson discloses a system (Figure 1) for enabling digital audio data files (digital audio files received over the Internet; page 2, paragraphs 23-24) to be played on a remote conventional audio device (home stereo 42; paragraph 25), the system comprising:

a host PC (PC 46 is connected to the Internet 30 using an internet access device 44; paragraph 25);

one or more electronic devices (base station PC expansion card 48; paragraph 26); and

a remote device for controlling said transmission (headset 66 provides remote command and control; paragraph 29).

Regarding claim 7, playback station 52 receives audio signals from base station 48 via wireless communications 54 and provides an audio output suitable for a conventional stereo 42 via an auxiliary input connection (paragraph 26).

Response to Arguments

5. Applicant's arguments filed June 7, 2004 have been fully considered but they are not persuasive. Applicant argues the published PCT application teaches a special purpose playback device rather than conventional playback equipment, such as an FM radio. However, the published PCT application WO 00/59120 explicitly teaches that the remote audio device (tuner 24) is a conventional radio reception and sound reproduction device (see Abstract, last sentence).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

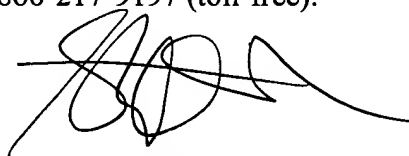
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



STELLA WOO
PRIMARY EXAMINER